

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

DYNAENERGETICS EUROPE GMBH, and
DYNAENERGETICS US, INC.,

Plaintiffs,

v.

NEXTIER OILFIELD SOLUTIONS INC., and
NEXTIER COMPLETION SOLUTIONS INC.

Defendant.

Civil Action No: 6:20-cv-01201-ADA

**NOTICE OF DISMISSAL WITHOUT PREJUDICE
UNDER FRCP 41(a)(1)(A)(i)**

Pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i), Plaintiffs DynaEnergetics Europe GmbH and DynaEnergetics US, Inc. (collectively, “DynaEnergetics”) file this notice of voluntary dismissal without prejudice against Defendant NexTier Oilfield Solutions Inc. (hereinafter referred to as “NOS”).

As discussed in DynaEnergetics’ concurrently filed First Amended Complaint, NOS was the original defendant in this action. This was in reliance, in part, on the product information regarding the accused “GameChanger™ Perforating System” (hereinafter referred to as “GameChanger”) provided on NOS’s website (*see* Dkt. 1-2) as well as NOS’s representations in connection with its pleadings in *Nexus Perforating LLC v. NexTier Oilfield Solutions Inc., et al*, Case No. 4:20-CV-01539 (S.D. Tex.) that GameChanger is “its accused product[.]” *See id.* at Counterclaim, Dkt. 15 ¶ 12; *see also id.* at Joint Discovery Plan: Defendants’ Statement, Dkt. 20 at 2. However, in reliance on NOS and NexTier Completion Solutions Inc.’s (hereinafter

referred to as “NCS”) representations in this action that NOS is “a holding company that does not conduct any business operations of [its] own” and that its “wireline and fracturing services,” including the accused conduct, are carried out by NOS’s wholly owned subsidiary, NCS (*see* Dkt. 22 at 3-4, Dkt. 22-1 ¶ 11), DynaEnergetics is voluntarily dismissing its claims against NOS without prejudice.

NOS has not answered the Complaint or moved for summary judgment of any of the claims asserted therein. Therefore, dismissal of NOS without prejudice is permitted without a Court Order.

Dated: May 4, 2021

Respectfully submitted,

By: /s/Eric H. Findlay
Eric H. Findlay
Texas Bar No. 00789886
Brian Craft
Texas Bar No. 04972020
FINDLAY CRAFT P.C.
102 N. College Avenue, Suite 900
Tyler, TX 75702
Telephone: (903) 534-1100
Facsimile: (903) 534-1137
Email: efindlay@findlaycraft.com
Email: bcraft@findlaycraft.com

Barry J. Herman (*pro hac vice*)
Maryland Federal Bar No. 26061
Stephanie M. Nguyen (*pro hac vice*)
DC Bar No. 1046300
Julie C. Giardina (*pro hac vice*)
Maryland Federal Bar No. 21085
WOMBLE BOND DICKINSON (US) LLP
100 Light St, 26th Floor
Baltimore, MD 21202
Telephone: (410) 545-5830
Email: Barry.Herman@wbd-us.com
Telephone: (410) 545-5873
Email: Stephanie.Nguyen@wbd-us.com
Telephone: (410) 545-5802
Email: Julie.Giardina@wbd-us.com

Preston H. Heard (*pro hac vice*)
Georgia Bar No. 476319
WOMBLE BOND DICKINSON (US) LLP
271 17th Street, NW, Suite 2400
Atlanta, GA 30363
Telephone: (404) 888-7366
Email: Preston.Heard@wbd-us.com

Lisa J. Moyles (*pro hac vice*)
Connecticut State Bar No. 425652
Jason M. Rockman (*pro hac vice*)
New York Bar No. 4450953
MOYLES IP, LLC
One Enterprise Drive, Suite 428
Shelton, CT 06484
Telephone: (203) 428-4420
Email: lmoyles@moylesip.com
Email: jrockman@moylesip.com

*Attorneys for Plaintiffs DynaEnergetics Europe
GmbH and DynaEnergetics US, Inc.*

CERTIFICATE OF SERVICE

I hereby certify that on May 4, 2021, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send notification of such filing *via* electronic mail to all counsel of record.

/s/Eric H. Findlay
Eric H. Findlay